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GOOGLE INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

MASTEROBJECTS, INC.,

Plaintiff and
Counter-defendant

v.

GOOGLE INC.,

Defendant and
Counterclaimant.

CASE NO. CV 11-01054 PJH

**STIPULATION RELATED TO
PLAINTIFF'S MOTION FOR LEAVE TO
FILE THIRD AMENDED COMPLAINT,
INFRINGEMENT CONTENTIONS AND
[PROPOSED] ORDER**

STIPULATION RELATED TO PLAINTIFF'S MOTION
FOR LEAVE TO FILE THIRD AMENDED
COMPLAINT, INFRINGEMENT CONTENTIONS AND
[PROPOSED] ORDER

CASE NO. CV 11-01054 PJH

1 Plaintiff MasterObjects, Inc. (“Plaintiff”) and Defendant Google Inc. (“Defendant”)
 2 (collectively the “Parties”), hereby stipulate as follows:

3 WHEREAS, on or about March 7, 2011, Plaintiff served its Complaint upon Defendant
 4 alleging infringement of U.S. Patent No. 7,752,326 (“the ’326 patent”);

5 WHEREAS, on or about April 27, 2011, Defendant filed a Motion to Dismiss the
 6 Complaint, or in the Alternative, For a More Definite Statement (D.N. 11) under F.R.C.P. 12;

7 WHEREAS, on or about June 8, 2011, without conceding the allegations in the motion,
 8 Plaintiff proposed an Amended Complaint (the “First Amended Complaint”) in order to respond
 9 to the alleged deficiencies;

10 WHEREAS, Defendant stipulated that it would not oppose the filing of the First Amended
 11 Complaint, while reserving all rights to then respond as it deemed appropriate to the First
 12 Amended Complaint, including with respect to any objections, defenses, and/or perceived
 13 deficiencies under F.R.C.P. 12 or any other federal or local rule (“the First Stipulation”) (D.N.
 14 23);

15 WHEREAS, on or about June 10, 2011, pursuant to the First Stipulation, the Court
 16 granted Plaintiff leave to file the First Amended Complaint (D.N. 25);

17 WHEREAS, on or about June 10, 2011, Plaintiff filed its First Amended Complaint (D.N.
 18 28);

19 WHEREAS, on or about June 24, 2011, Defendant filed its Answer to the First Amended
 20 Complaint and Counterclaims (D.N. 30);

21 WHEREAS, at the September 22, 2011 Status Conference, the Parties discussed the
 22 circumstances under which Plaintiff’s newly-allowed patent application would be
 23 asserted in this action;

24 WHEREAS, U.S. Patent No. 8,060,639 (“the ’639 patent”) issued on November 15, 2011;

25 WHEREAS, Defendant stipulated (“the Second Stipulation”) (D.N. 58) that it would not
 26 oppose the filing of a Second Amended Complaint if Plaintiff withdrew its earlier allegations that
 27 Defendant infringes under 35 U.S.C. §§ 271 (b) or (c);

28 STIPULATION RELATED TO PLAINTIFF’S MOTION
 FOR LEAVE TO FILE THIRD AMENDED
 COMPLAINT, INFRINGEMENT CONTENTIONS AND
 [PROPOSED] ORDER

1 WHEREAS, on or about November 29, 2011, pursuant to the Second Stipulation, the
2 Court granted Plaintiff leave to file the Second Amended Complaint (D.N. 59);

3 WHEREAS, on or about November 30, 2011, Plaintiff filed its Second Amended
4 Complaint (D.N. 60);

5 WHEREAS, on or about December 13, 2011, Defendant filed its Answer to the Second
6 Amended Complaint and Counterclaims (D.N. 61);

7 WHEREAS, U.S. Patent No. 8,112,529 (“the ’529 patent”) issued on February 7, 2012;

8 WHEREAS, on or about March 5, 2012, Plaintiff filed its Motion for Leave to File a
9 Third Amended Complaint (D.N. 77) to add the newly-issued ’529 patent to this case;

10 WHEREAS, on or about March 21, 2012, Plaintiff and Defendant filed a stipulation and
11 proposed order extending the briefing deadlines related to the Motion for Leave to File a Third
12 Amended Complaint as the Parties continued negotiations relating to a stipulation as to the
13 Motion for Leave to File a Third Amended Complaint;

14 WHEREAS, the Parties, through their respective counsel of record, have agreed to this
15 filing;

16 WHEREAS, no trial date has yet been set in this action; and

17 WHEREFORE IT IS HEREBY STIPULATED BY THE PARTIES HERETO that (1)
18 Defendant will not oppose Plaintiff’s Third Motion for Leave to File a Third Amended
19 Complaint; (2) within the earlier of a) sixty (60) days after Defendant confirms to Plaintiff that its
20 relevant source code has been made available for Plaintiff’s inspection, or b) thirty (30) days after
21 Plaintiff commences review of such source code, Plaintiff will supplement its infringement
22 contentions under Patent L.R. 3-1 to assert a total of no more than ten (10) patent claims from the
23 ’326, ’639 and ’529 patents against Defendant’s accused products and services, whereby Plaintiff
24 shall be limited to no more than those ten (10) claims or a subset thereof from the ’326, ’639 and
25 ’529 patents; and (3) within (45) days after Plaintiff has served its supplemental infringement
26 contentions on Defendant, Defendant will supplement its invalidity contentions under Patent L.R.
27 3-3 with respect to the ten (10) patent claims or a subset thereof from the ’326, ’639, and ’529

1 patents that Plaintiff continues to assert against Defendant in this case.

2
3 DATED: March 27, 2012

HOSIE RICE LLP

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5 By: /s/ William P. Nelson

William P. Nelson

Attorneys for Plaintiff MasterObjects, Inc.

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7 KASOWITZ, BENSON, TORRES & FRIEDMAN LLP

8
9 By: /s/ Jonathan K. Waldrop

Jonathan K. Waldrop

Attorneys for Defendant and Counterclaimant
GOOGLE INC.

10
11
12 I hereby attest pursuant to General Order 45.X.B. that concurrence in the electronic filing
13 of this document has been obtained from the other signatories.

14 DATED: March 27, 2012

/s/ William P. Nelson

William P. Nelson

[PROPOSED] ORDER**PURSUANT TO STIPULATION IT IS ORDERED THAT**

(1) Leave to file Plaintiff's Third Amended Complaint is **GRANTED**; (2) within the earlier of a) sixty (60) days after Defendant confirms to Plaintiff that its relevant source code has been made available for Plaintiff's inspection, or b) thirty (30) days after Plaintiff commences review of such source code, Plaintiff will supplement its infringement contentions under Patent L.R. 3-1 to assert a total of no more than ten (10) patent claims from U.S. Patent Nos. 7,752,326, 8,060,639 and 8,112,529 against Defendant's accused products and services, whereby Plaintiff shall be limited to no more than those ten (10) claims or a subset thereof from U.S. Patent Nos. 7,752,326, 8,060,639 and 8,112,529 for this action; and (3) within (45) days after Plaintiff has served its supplemental infringement contentions on Defendant, Defendant will supplement its invalidity contentions under Patent L.R. 3-3 with respect to the ten (10) patent claims or a subset thereof from Patent Nos. 7,752,326, 8,060,639 and 8,112,529 that Plaintiff continues to assert against Defendant in this case.

Dated: _____

Honorable Phyllis J. Hamilton
U.S. District Judge